



Before the Committee on Homeland Security
Subcommittee on Management, Integration and Oversight
United States House of Representatives
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9/11 Federal Assistance to New York: Lessons Learned in Fraud Detection, Prevention and Control

**Statement of
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**On behalf of
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Executive Director
Lower Manhattan Construction Command Center**

Chairman Rogers, Ranking Member Meek, and Members of the Subcommittee:

I. INTRODUCTION

Thank you for the opportunity to testify today on behalf of the Lower Manhattan Construction Command Center and its Executive Director Charles J. Maikish. (Biographies of Charles J. Maikish and Ronald P. Calvosa are attached as Exhibit #1). I am here to discuss the Fraud Prevention measures being instituted around the construction activities involved in the rebuilding of Lower Manhattan. There are many projects ongoing or planned for Lower Manhattan, some involving grants of federal funds. It is essential that the work proceed with the utmost integrity.

II. SUMMARY

The Lower Manhattan Construction Command Center has been given responsibility for overall fraud prevention regarding construction projects under its jurisdiction. It has already formulated a plan and is implementing that plan in an effort to eliminate the opportunity for wrongdoing.

There are six measures comprising the current fraud prevention program. These are:

- 1) Lower Manhattan Construction Integrity Team
- 2) Fraud Prevention Hotline
- 3) Fraud Awareness Training
- 4) Vetting of contractors
- 5) Contractor Employee Screening and Access Control
- 6) Integrity Monitors

The fraud prevention program will be discussed in detail including the steps that have been taken thus far and will conclude with future steps that are planned. First I would like to provide this subcommittee with a description of the Lower Manhattan Construction Command Center.

III. LOWER MANHATTAN CONSTRUCTION COMMAND CENTER

On November 22, 2004, concerned about the potential impacts of the large amount of construction projects underway or planned for the constricted area of Lower Manhattan during the reconstruction after the September 11 attack, New York Governor George Pataki and New York City Mayor Michael Bloomberg issued Executive Orders No. 133 and 53, respectively. They established a central point of control for all large construction projects – the Lower Manhattan Construction Command Center (“LMCCC”). The purpose of the LMCCC, as stated in the Executive Orders, is to “...coordinate between all construction located in Lower Manhattan [including] all construction projects beginning from 2004 to 2010 valued at over \$25 million ... work requiring governmental action or permit, and construction requiring work directly in City or State streets or highways.” (The Executive Orders are attached as Exhibit # 2).

As mandated by the Governor and the Mayor, the LMCCC is charged with the coordination and oversight of construction projects in Lower Manhattan south of Canal Street from the Hudson to the East River. It will bring together private developers, public agencies and authorities, utilities, businesses and resident representatives in one physical location. The LMCCC and its Executive Director will provide a forum for expeditious and consistent decision-making on disputes among agencies, a key element to ensure a successful rebuilding. Simply put, the mission of the LMCCC is to facilitate, mitigate and communicate.

Significantly, the Executive Orders directed the LMCCC to perform a fraud prevention function and to employ a Fraud Prevention Director.

IV. SCOPE OF PROJECTS

There is \$9.99 billion in construction work in progress or ready to commence within a three block radius of the World Trade Center site. Within the next five years, more than \$20 billion in construction work will be underway in all of Lower Manhattan, south of Canal Street.

This translates into a need for in excess of two million cubic yards of concrete; more than 200,000 concrete trucks; and a projected daily construction workforce of 6,500 for the next three to five years.

Projects south of Canal Street in Lower Manhattan include the rebuilding of the World Trade Center Site with the erection of the Freedom Tower and three other towers. In addition, a new Port Authority of New York & New Jersey PATH Transportation Hub will be built on that site, as well as, the Memorial and Museum. A Performing Arts Center will also be constructed on the site.

Other projects in the area include the deconstruction of 130 Liberty Street, (the former Deutsche Bank building), and the construction of a fifth tower and vehicle security center in its place. In addition, work being done with Federal Transit Administration (“FTA”) funds includes the creation of a new Fulton Street Transit Center and a new South Ferry Subway Station. Federal Highway Administration funding is being used to develop Route 9A. Moreover, various street reconstruction projects are either underway or scheduled to commence. These projects are the responsibility of a number of agencies including the Port Authority of New York & New Jersey; the Lower Manhattan Development Corporation; the Metropolitan Transportation Authority; the New York State Department of Transportation; and the New York City Departments of Transportation and Design & Construction.

In addition to public projects, there are numerous private development projects in the area, as well. (A map of planned and ongoing Lower Manhattan projects is attached as Exhibit # 3).

V. THE FRAUD PREVENTION PROGRAM

1. Lower Manhattan Construction Integrity Team

In order to fulfill the responsibility of fraud prevention, the Executive Orders mandate that the LMCCC work with the various Inspectors General that comprise the Lower Manhattan Construction Integrity Team (“LMCIT”).

In early 2004, a group of Inspectors General with oversight responsibility for agencies performing work in Lower Manhattan, or whose agencies issue funds for projects in Lower Manhattan gathered together at the invitation of the Vice President of Investigations for the Lower Manhattan Development Corporation (“LMDC”), to form LMCIT. The group was formed in mutual recognition of the inherent risks and heightened opportunities for fraud against the projects of all the affected agencies. There was also mutual recognition to jointly explore what could be done cooperatively for the benefit of all the programs. In addition, the group assisted LMDC in developing fraud prevention measures for LMDC’s programs.

With the advent of construction, LMCIT has become more focused in its mission to work collaboratively toward its goal of preventing fraud across the various agencies and projects. In my capacity as LMCCC’s Fraud Prevention Director, I chair the LMCIT meetings and coordinate its fraud prevention efforts.

LMCIT is comprised of the Office of Inspector General for the State of New York; the New York City Department of Investigation; the Offices of Inspectors General for the Port Authority of New York & New Jersey; the Metropolitan Transportation Authority; the United States Department of Transportation; and the United States Department of Housing and Urban Development. Additionally, the Lower Manhattan Development Corporation’s Investigations Unit is also a represented on LMCIT, as well as the New York City Business Integrity Commission, the Office of Inspector General for the United States Department of Labor and the Chief Compliance Officer for the Metropolitan Transportation Authority.

LMCIT serves as the backbone for the Fraud Prevention Program. This unique group of federal, state and local investigative offices is relied upon to ensure that measures are taken to prevent, detect and eliminate fraud.

2. Fraud Prevention Hotline

The Executive Orders directed LMCCC to receive allegations of corruption or criminal activity by or on behalf of any agency employee, public official, contractor employee, agent, subcontractor, vendor, or labor official through the establishment of a Lower Manhattan Fraud Prevention Hotline.

A contract, funded by the FTA, was awarded to an Integrity Hotline service provider, to work with LMCCC in establishing a complaint hotline for the receipt of telephone

complaints from a variety of sources, including construction workers and members of the public.

The Hotline service provider receives calls, records and transmits complaints to LMCCC. In addition, a database of complaints is accessible to LMCCC through the Internet. Incoming complaints are reviewed and referred to the appropriate Inspector General's office having jurisdiction over the matter.

The Hotline serves as a cornerstone for the Fraud Prevention Program, providing a ready outlet for complainants to provide information about potential wrongdoing.

Once the Hotline was created, LMCCC began a campaign to publicize the existence of the Hotline. Posters were created and placed at various jobsites in Lower Manhattan. (A copy of the Hotline Poster is attached as Exhibit # 4). In addition, a full page advertisement (back cover) for the Hotline was recently placed in neighborhood newspaper's annual community handbook.

In addition, the Hotline number has been placed on the back of identification/access cards for workers on one of the Lower Manhattan projects.

To further enhance the opportunity to report alleged fraudulent activity, an on-line complaint form was launched on LMCCC's website, www.LowerManhattan.info. This form provides the opportunity to make a report via the web. The complaint form can also be printed and mailed to LMCCC.

Whether the complaint is made via the Hotline, the Internet, or by mail, a complainant may choose to be anonymous, or to supply their contact information. In all instances, maintaining confidentiality is paramount.

In the near future, additional steps will be taken to publicize the Hotline and web-based complaint form.

3. Fraud Awareness Training

LMCCC along with members of LMCIT, including the Offices of Inspectors General for the United States Department of Transportation; the Port Authority of New York & New Jersey; and State of New York, developed a fraud prevention training module for presentation to contractors and their employees.

The training was modeled after training typically given in the New York area to government employees in agencies involved in the contracting process. While common in the public sector, this sort of training heretofore had rarely been provided to contractor staff. Similar to the training given to public agency employees, this training is to provide information about prohibited conduct. For example, contractor employees are told what penalties they face if they offer or give bribes or gratuities to public employees. In addition, they are told that submitting false documents, failure to pay the correct wages,

or engaging in other fraudulent activity can result in criminal charges, civil action, and administrative sanctions. The administrative sanctions (e.g., being placed on an ineligible or suspended bidders list) can have serious detrimental effects on a business entity's ability to receive future publicly funded contracts.

The target audience for this training is contractor employees in managerial or supervisory positions. The training has been rolled out and additional training sessions are being scheduled. A record is kept of all those receiving the training.

4. Vetting of Contractors

The various agencies awarding Lower Manhattan construction contracts have primary responsibility for ensuring that business entities and their principals have the necessary integrity to receive public works contracts. In an attempt to attain a uniform standard for conducting an integrity review, LMCCC surveyed each contracting agency to determine what steps were being taken as part of their integrity review of contractors. The survey results indicated that most agencies were performing similar checks. LMCCC reviewed the results and developed a list of best practices for conducting a rigorous integrity review. LMCCC recommended that the contracting agencies perform these checks uniformly.

Moreover, LMCCC also recommended an enhanced level of review for Lower Manhattan projects, far exceeding the requirements and practices of the contracting agencies as to the threshold trigger for conducting an integrity review. These recommendations included performing checks on multiple-tiered subcontractors, as well as general contractors and first-tier subcontractors.

In addition, LMCCC recommended that information sharing done among LMCIT members become part of the overall standard vetting process. LMCCC recommended that the vetting process include a search by LMCIT members of their internal databases for any derogatory information on proposed contractors/subcontractors. This part of the check is very valuable as each member is able to provide non-confidential information about ongoing or closed investigations to other LMCIT members in order to assist contracting agencies in their decision making process.

LMCCC serves as the facilitator for vetting amongst LMCIT members. Requests for name checks are received, logged, disseminated and tracked to completion. LMCCC communicates the results of the name checks to the requestor. To date, LMCCC has facilitated name check requests on a total of nearly 350 business entities and individuals.

5. Contractor Employee Screening and Access Control

With an acute awareness for the need for security at Lower Manhattan construction sites, especially the World Trade Center site; a concern about the possible infiltration of organized crime onto construction projects; and an overall concern regarding the

backgrounds of construction workers, LMCCC has worked with the Inspector General's Office for the Port Authority of New York & New Jersey, and organized labor, to determine the feasibility of conducting background checks on contractor employees. A plan was developed and with comments and suggestions of LMCIT members a protocol was developed.

In order to be granted access to the construction sites, employees will have to submit to background screening that will include a cross check against the terrorist watch-list. In addition, criminal record searches will be conducted to determine if a prospective worker has a criminal conviction or outstanding criminal charge in the key areas such as organized crime, theft, and violence. Workers who clear these checks will be issued an access card.

Initially the program will be implemented at the World Trade Center site, but we are hopeful that we will be able to extend the program to other construction projects in Lower Manhattan.

6. Integrity Monitors

Integrity Monitors, also known as Independent Private Sector Inspectors General or "IPSIGs", have proven to be a valuable tool for preventing fraud. They serve as a supplement to contracting agencies' existing safeguards, such as, auditing provided by both internal and external auditors. They also supplement existing investigative resources of an Inspector General's office. Integrity Monitors provide a multi-disciplined approach to the oversight of construction projects. They typically bring together legal, audit/accounting, investigative, engineering and environmental expertise. Integrity Monitors will be an important component of the overall Fraud Prevention Program for Lower Manhattan.

Integrity Monitors are generally used for two specific purposes. They can be utilized to address an integrity issue pertaining to a specific business entity. They can also be utilized to ensure the integrity of a particular project. We will see the use of Integrity Monitors in both of these ways with regard to Lower Manhattan construction projects.

LMCCC is uniquely positioned to coordinate the activities of Integrity Monitors in Lower Manhattan. Working with the Inspectors General, or other officials overseeing the work of the Integrity Monitors, the LMCCC's Fraud Prevention Director will be made aware of particular problems or areas of concern that may be develop, or be uncovered, regarding a particular individual, business entity or project. Working with LMCIT, LMCCC will be able to communicate the issues to other members in the group that may have similar issues. The goal, of course, is to prevent problems or address them should they be detected.

Integrity Monitors are already being utilized on some Lower Manhattan construction projects and there are plans to expand their use on other projects. At present, there is an Integrity Monitor overseeing the deconstruction work on the Lower Manhattan

Development Corporation's 130 Liberty Street project. The Metropolitan Transportation Authority has a compliance monitor in place regarding its contracts for the construction of the Fulton Street Transit Center and South Ferry Subway Station. In addition, the Port Authority of New York & New Jersey is in the process of hiring an Integrity Monitor to oversee the construction of the new PATH Transportation Hub and other Port Authority projects.

IV. CONCLUSION

The steps indicated above are an outline and a beginning for the Lower Manhattan Fraud Prevention Program. The Program will be elastic, adapting itself to address specific areas and needs. Future initiatives are under development. These include the development of a master database of all contractors, subcontractors, consultants and subconsultants working on construction projects in Lower Manhattan, and the development of standardized contract language to address fraud prevention concerns.

The ultimate goal is not only to have Lower Manhattan rebuilt, but to have it rebuilt with integrity.

This concludes my testimony. I would be glad to answer any questions that you have.

SUPPLEMENTAL SHEET

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Summary:

Testimony will be provided on behalf of the Lower Manhattan Construction Command Center and its Executive Director Charles J. Maikish concerning the Fraud Prevention measures being instituted around the construction activities involved in the rebuilding of Lower Manhattan.